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STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			SING, SIMON P	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/649,778

Filing Date: August 28, 2003

Appellant(s): HOLZ ET AL.

Thomas E. McKieman  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed on 05/23/2007 appealing from the Office action mailed 01/05/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2003/0135569	KHAKOO et al	07-2003
2003/0076941	TILIKS	04-2003

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claims 1, 3-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Khakoo et al. US Patent 2003/0135569.**

*Regarding claim 1*, Khakoo teaches a method of managing incoming messages in a communications system (abstract) comprising the steps of:

upon receipt of a message checking if a pre-defined availability status (step 310; fig. 3) allocated to a predetermined recipient of the call is activated (abstract; fig. 2; paragraphs 0018, 0022 and 0023);

upon activation of a pre-defined availability status applying a pre-defined filter rule to the call in accordance with the activated availability status (paragraphs 0018, 0020 and 0021);

executing a message handling action associated with the activated availability status (paragraphs 0023); and

wherein the availability status is selectable for activation by the predetermined recipient of the call (paragraph 0020, 0021).

In Khakoo, a user (message recipient) is able to manually register his presence status, and the presence status, either present (available status), or away (unavailable status) is therefore selectable by the user for activation. If the user selects (and registers) the presence status as away, then the unavailable status is activated, and incoming messages are handled accordingly as shown in figure 3, steps 360-370. If the user selects the presence status as present, then the available status is activated and incoming messages are handled accordingly as shown in figure 3, steps 315-350.

***Regarding claim 3***, Khakoo, as applied to claim 1, teaches wherein only one availability status is activated at a time, (paragraph 0020).

***Regarding claim 4***, Khakoo, as applied to claim 1, teaches wherein any message is signalized and routed to the recipient by applying the filter rule relating to an availability status in which the recipient is prepared to receive messages, (figure 3; paragraphs 0023 and 0024).

***Regarding claim 6***, Khakoo, as applied to claim 1, teaches wherein any message is forwarded to another pre-defined recipient by executing the message handling action, (fig. 3; paragraphs 0024 and 0025).

***Regarding claim 7***, Khakoo, as applied to claim 1, teaches wherein the message handling action comprises notifying the recipient of attempted communication by means of a message directed to a selected communication device allocated to the recipient, (paragraphs 0023 and 0024).

***Regarding claim 9,*** Khakoo teaches an apparatus for managing incoming messages in a communications system (abstract) comprising:

means for checking, upon receipt of a message, if a pre-defined availability status allocated to a predetermined recipient of the message is activated, (paragraphs 0018, 0022, 0023);

means for applying, upon activation of a pre-defined availability status, a pre-defined filter rule to the message in accordance with the activated availability status, (paragraphs 0018, 0020, 0021);

means for executing a message handling action associated with the activated availability status, (paragraph 0023); and

wherein the availability status is selectable for activation by the predetermined recipient of the call, (paragraphs 0020-0021).

In Khakoo, a user (message recipient) is able to manually register his presence status, and the presence status, either present (available status), or away (unavailable status) is therefore selectable by the user for activation. If the user selects (and registers) the presence status as away, then the unavailable status is activated, and incoming messages are handled accordingly as shown in figure 3, steps 360-370. If the user selects the presence status as present, then the available status is activated and incoming messages are handled accordingly as shown in figure 3, steps 315-350.

***Regarding claim 10,*** Khakoo teaches a computer program product stored on a computer usable medium (abstract) comprising:

computer readable means for causing a computer to check, Upon receipt of a message, if a pre-defined availability status allocated to a predetermined recipient of the Call is activated, (paragraphs 0018,0022,0023);

computer readable means for causing the computer to apply, upon activation of a pre-defined availability status, a pre-defined filter rule to the message in accordance with the activated availability status, (paragraphs 0018,0020 and 0021);

computer readable means for causing the computer to execute a message handling action associated with the activated availability status, (paragraph 0023); and wherein the availability status is selectable for activation by the predetermined recipient of the call, (paragraphs 0020-0021).

In Khakoo, a user (message recipient) is able to manually register his presence status, and the presence status, either present (available status), or away (unavailable status) is therefore selectable by the user for activation. If the user selects (and registers) the presence status as away, then the unavailable status is activated, and incoming messages are handled accordingly as shown in figure 3, steps 360-370. If the user selects the presence status as present, then the available status is activated and incoming messages are handled accordingly as shown in figure 3, steps 315-350.

**Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khakoo in view of Tiliks.**

***Regarding claims 5 and 8,*** Khakoo teaches voice capable terminals (abstract; paragraph 0019), but fails to teach only calls/messages from a predetermine set of

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callers/sender are signalized and forwarded to the recipient and the destination is associated with an entry in a personal scheduler.

In the same field of endeavor, Tiliks teaches wherein only calls/messages originating from a pre-determined set of callers are signalized and forwarded to the recipient by applying the filter rule, (paragraphs 0090 and 0097) and wherein the call is routed to a destination associated with an entry in a personal scheduler of the recipient, (figure 11; paragraphs 0141 and 0145).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Khakoo by routing the messages to destination associated with an entry in a personal scheduler as taught by Tiliks so that the message recipient can easily change their schedule and rules for receiving messages and/or calls.

#### **(10) Response to Argument**

Appellant's arguments filed in the Appeal Brief have been fully considered but they are not persuasive.

##### ***Independent claims 1, 9 and 10:***

Appellant argues that Khakoo fails to teach or suggest that the user's availability status is "selectable for activation by the predetermined recipient of the call and/or message" as claimed, because a message is delivered to its recipient (user) based on the user's presence status 240 in the presence database 200. Appellant argues that the user of Khakoo has no control over the information maintained in the database 200,

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and therefore the user's availability status is not "selectable for activation by the predetermined recipient of the call and/or message" (see page 6 of the Appeal Brief). Appellant also argues that because a message delivery server 100 performs a test to determine if the recipient is available, therefore the user's availability status is not "selectable for activation by the predetermined recipient of the call and/or message" (see page 8 of the Appeal Brief). Appellant further argues that because a message delivery server 100 is always able to determine whether a user is available, therefore the user's availability status is not "selectable for activation by the predetermined recipient of the call and/or message" (see page 10 of Appear Brief).

However, Khakoo teaches that the presence and device address information are entered through a process of manual registration by the user (message recipient) in any known manner (paragraph 0021). Thus the message delivery server is always able to determine whether a user is available (or not). As stated in the rejection above, the user selects (and registers or enters) his presence as either "away" (figure 2) or "present" (paragraphs 0020-0021). When the "away" presence status is selected by the user, an unavailable status (of the user) is activated (figure 3, steps 310, 360-370), whereas when the "present" presence status is selected, an available status is activated (figure 3, steps 310-350). Therefore, Khakoo teaches that an availability status (available or unavailable) is selectable by a user for activation.

***Dependent claims 5 and 8:***

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No further argument is presented by the appellant except the ones for the independent claims 1, 9 and 10 stated above.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Simon Sing



08/30/2007

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